

NOVEMBER 26, 2007MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION****07 C 50234**

MR. EKRAM SAEED,

Plaintiff

v.

MICHAEL B. MUKASEY, Attorney

General of the United States;

ROBERT MUELLER, Director, Federal

Bureau of Investigations

MICHAEL CHERTOFF, Secretary of

Department of Homeland Security;

EMILIO T. GONZALEZ, Director,

U.S. Citizenship and Immigration Services;

RUTH A. DOROCHOFF, District

Director, Department of Homeland

Security, Chicago District Office

Defendants.

No: _____

**JUDGE KAPALA
MAGISTRATE JUDGE MAHONEY**Petition for a Hearing on
Naturalization Application
under 8 U.S.C. § 1447(b)**INTRODUCTION**

1. Plaintiff is a lawful permanent resident of the United States who is statutorily eligible to naturalize and become a United States citizen. Plaintiff's application for naturalization has been unlawfully delayed by defendants. As a consequence, this Court has jurisdiction to adjudicate Plaintiff's naturalization application and to grant him citizenship pursuant to 8 U.S.C. § 1447(b).

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this case pursuant to 8 U.S.C. § 1447(b) (jurisdiction over naturalization applications), 28 U.S.C. § 1331

(federal question jurisdiction), 28 U.S.C. § 2201 (declaratory judgment) and 5 U.S.C. § 701 (Administrative Procedures Act).

3. Venue is proper in this action pursuant to 28 U.S.C. § 1391(e)(3) and 8 U.S.C. § 1447(b) because Defendants maintain their offices in this district and the USCIS Office in this district is adjudicating Plaintiff's Application for Naturalization.

PARTIES

4. Plaintiff has resided in the United States as a lawful permanent resident since September 10, 1999. His claim to naturalization arises under 8 U.S.C. § 1447(b).

5. MICHAEL B. MUKASEY is the Attorney General of the United States, and is sued in his official capacity. Under the direction of the Attorney General, the Department of Justice is the agency of the United States government that has authority to conduct background checks and security checks for individuals who are applying for naturalization.

6. MICHAEL CHERTOFF is the Secretary of the Department of Homeland Security ("DHS"). As of March 1, 2003, DHS is the agency responsible for implementing the Immigration and Nationality Act. Within DHS, the United States Citizenship and Immigration Services is responsible for implementing the provisions under which lawful permanent residents can be naturalized and become United States citizens. *See, e.g.*, 8 U.S.C. § 1421, 8 C.F.R. § 310, and 8 C.F.R. § 316.3. Mr. Chertoff is sued in his official capacity.

7. EMILIO T. GONZALEZ is the Director of the U.S. Citizenship and Immigration Services ("USCIS"), a component of the DHS, which is responsible for the

administration of immigration and naturalization adjudication functions and establishing immigration services policies and priorities. Mr. Gonzalez is sued in his official capacity.

8. ROBERT MUELLER is the Director of the Federal Bureau of Investigation, a component of the Department of Justice, and is sued in his official capacity. The FBI has responsibility to complete certain name checks, security checks and other background checks for USCIS and other federal agencies.

9. RUTH A. DOROCHOFF is the District Director of the Chicago District of the U.S. Citizenship and Immigration Services of the Department of Homeland Security. Ms. Dorochoff has been delegated authority to adjudicate applications for naturalization within the Chicago District. Ms. Dorochoff is sued in her official capacity.

FACTS

10. Plaintiff is a native and citizen of Egypt. He was born on February 11, 1955.

11. On or about January 19, 2006, Plaintiff filed his application for naturalization with the U.S. Citizenship and Immigration Services. On June 6, 2006, Plaintiff was interviewed and examined on his naturalization application at the Chicago District Office of the USCIS.

12. At the examination, Plaintiff passed the tests of English and U.S. history and government as required under 8 U.S.C. § 1423. Nevertheless, he was told by the examining officer that a decision could not yet be made on his application due to a pending FBI background check.

13. Plaintiff's Application for Naturalization, filed on January 19, 2006, has remained pending despite numerous inquiries to defendants about the status of his

application. The U.S. Citizenship and Immigration Services has indicated that it will not adjudicate Plaintiff's application for naturalization until the background checks have been completed.

14. Many more than 120 days have passed since the examination, and Defendants have made no decision on Plaintiff's application in violation of 8 U.S.C. § 1447(b).

15. Plaintiff is eligible for naturalization, meets all the requirements for naturalization, and would have been approved for naturalization if the USCIS had properly followed and implemented the statute.

CLAIMS FOR RELIEF

16. Defendants' failure to make a determination on Plaintiff's application within the 120-day statutory period entitles Plaintiff to bring this matter before this Court for a hearing pursuant to 8 U.S.C. § 1447(b).

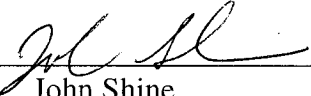
17. Plaintiff seeks a de novo judicial determination of his naturalization application and a grant of naturalization from this Court. In the alternative, Plaintiff seeks that the Court remand the application to USCIS with an order that it immediately adjudicate his application.

WHEREFORE, Plaintiff requests that the Court:

- A. Grant this petition and enter a judgment granting Plaintiff's naturalization and ordering that he is a naturalized citizen of the United States;
- B. In the alternative, remand the application to USCIS with an order that it adjudicate the application within 15 days of said order;

- C. Grant attorney's fees and costs under the Equal Access to Justice Act. 28 U.S.C. § 2412(d) & 5 U.S.C. § 504 et seq., and/or other appropriate authority;
- D. Grant such other and further relief as may be appropriate.

RESPECTFULLY SUBMITTED this 26 day of November, 2007,
Ekram Saeed

By: 
John Shine
Attorney for Plaintiff

John Shine
James Hallagan
Minsky, McCormick and Hallagan, P.C.
122 S. Michigan Ave. Suite 1800
Chicago, IL 60603
T: (312) 427-6163
F: (312) 427-6513

**INDEX OF DOCUMENTS IN SUPPORT OF PETITION FOR A
HEARING ON NATURALIZATION APPLICATION**

1. Receipt Notice, Form N-400, Application for Naturalization, showing receipt date of January 19, 2006.
2. Form N-652, Naturalization Interview Results, showing Plaintiff passed the tests of U.S. history and government on June 12, 2006.
3. Letter dated October 4, 2006, from Ruth A. Dorochoff, District Director of the USCIS Chicago District Office, to U.S. Representative Donald Manzullo, stating that Plaintiff's application has been delayed due to background checks.
4. Letter from U.S. Representative Donald Manzullo to Plaintiff regarding the status of his naturalization application.
5. Email dated June 26, 2007, from Robert L. Blackwood, USCIS Chicago District Field Office Director, stating that the background checks still have not cleared.
6. Stamped Infopass Appointment Notice and accompanying Status Inquiry Form dated October 2, 2007, whereby Plaintiff was informed by the USCIS Chicago District Office that the background checks still have not cleared

EXHIBIT 1

THE UNITED STATES OF AMERICA

Receipt		January 30, 2006	
CASE TYPE		INS #	
N400 Application For Naturalization		A 027 812 256	
APPLICATION NUMBER	RECEIVED DATE	PRIORITY DATE	PAGE
LIN*000860139	January 19, 2006	January 19, 2006	1 of 1

APPLICANT NAME AND MAILING ADDRESS

EKRAM KAMEL SAIED
1823 OLD OAKS CT
ROCKFORD IL 61108

PAYMENT INFORMATION:

Single Application Fee: \$400.00
Total Amount Received: \$400.00
Total Balance Due: \$0.00

The above application has been received by our office and is in process. Our records indicate your personal information is as follows:

Date of Birth: February 11, 1955
Address Where You Live: 1823 OLD OAKS CT
ROCKFORD IL 61108

Please verify your personal information listed above and immediately notify our office at the address or phone number listed below if there are any changes.

You will be notified of the date and place of your interview when you have been scheduled by the local INS office. You should expect to be notified within 540 days of this notice.

If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.

If you have other questions about possible immigration benefits and services, filing information, or INS forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call the NCSC TDD at 1-800-767-1833.

If you have access to the Internet, you can also visit INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.

INS Office Address:
US IMMIGRATION AND NATURALIZATION SERVICE
PO BOX 87400
LINCOLN NE 68501-

INS Customer Service Number:
(800) 375-5283

APPLICANT COPY

LIN000808224



EXHIBIT 2

Naturalization Interview Results

Department of Homeland Security
U.S. Citizenship and Immigration Service

NO. 000 812 256

On 6/12/06, you were interviewed by INS Officer Ramas-Reyes

- ☒ You passed the tests of English and U.S. history and government.
☐ You passed the test of U.S. history and government and the English language requirement was waived.
☐ The Service has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or knowledge of U.S. history and government.
☐ You will be given another opportunity to be tested on your ability to speak/ read/ / write / understand English.
☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.
☐ Please follow the instructions on the Form N-14.
☐ INS will send you a written decision about your application.
☐ You did not pass the second and final test of your English ability / knowledge of U.S. history and government. You will not be rescheduled for another interview for this N-400. INS will send you a written decision about your application.

A) **Congratulations! Your application has been recommended for approval.** At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for your Oath Ceremony.

B) X **A decision cannot yet be made about your application.**

Pending Background
check

It is very important that you:

- ✓ Notify INS if you change your address.
- ✓ Come to any scheduled interview.
- ✓ Submit all requested documents.
- ✓ Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number(#A), and a copy of this paper.
- ✓ Go to any oath ceremony that you are scheduled to attend.
- ✓ Notify INS as soon as possible in writing if you cannot come to any scheduled interview or Oath ceremony. Include a copy of this paper and a copy of the scheduling notice.

NOTE: Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS had not made a determination on your application within 120 days of the date of your examination.

EXHIBIT 3

The Honorable Donald Manzullo
U.S. Representative
Attn: Carol E. Wieneke

October 4, 2006

A27-812-256 Ekram Saeed

Dear Congressman Manzullo:

Thank you for your follow up inquiry on behalf of your constituent, Ekram Saeed. We regret to inform you that our records still reflect that the FBI name check has not cleared. As you are aware, Citizenship and Immigration Services may not proceed with the adjudication of the application or petition until this is resolved. Cases are checked weekly for results to keep the adjudication process ongoing and timely. Once the results of the FBI name check are received, a decision on the pending application will be made in an expeditious manner.

Your patience and understanding is appreciated.

Sincerely,

Ruth A. Dorochoff
District Director

EXHIBIT 4

DONALD A. MANZULLO
COMMITTEE ON SMALL BUSINESS
CHAIRMAN

COMMITTEE ON
FINANCIAL SERVICES

SUBCOMMITTEE ON
CAPITAL MARKETS, INSURANCE
AND GOVERNMENT
SPONSORED ENTERPRISES

SUBCOMMITTEE ON
DOMESTIC AND INTERNATIONAL
MONETARY POLICY,
TRADE AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, DC 20515-1316

16TH DISTRICT, ILLINOIS
2228 RAYBURN BUILDING
WASHINGTON, DC 20515
202/225-5576
FAX: 202/225-5284

DISTRICT OFFICES:
415 SOUTH MULFORD ROAD
ROCKFORD, IL 61108
FAX: 815/394-3930

5186 NORTHWEST HIGHWAY
SUITE 130
CRYSTAL LAKE, IL 60014
815/356-9800
FAX: 815/356-8803

www.house.gov/manzullo

PLEASE RESPOND TO

415 South Mulford Road
Rockford, IL 61108
(815) 394-1231
(815) 394-3930- FAX

October 5, 2006

Ekram Saeed
1823 Old Oak Court
Rockford, IL 61108-6885

Dear Ekram,

After checking with Citizenship and Immigration in Chicago regarding the status of your Application for Naturalization, I received the attached letter.

I will be glad to check on this for you again in 90 days and let you know the status at that time. In the meantime, if you hear something further please contact Carol Wieneke in my Rockford office and let her know.

With all good wishes, I am

Sincerely,



Donald A. Manzullo
Member of Congress

enclosure

EXHIBIT 5

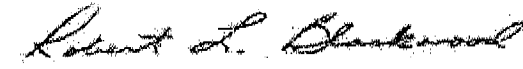
Sent: Tuesday, June 26, 2007 3:49 PM
To: Wieneke, Carol
Subject: RE: A 027 812 256; Ekram Saeed

The Honorable Donald Manzullo
United States Congress
Attn: Carol Wieneke

This is in response to your inquiry dated June 22, 2007. The United States Citizenship and Immigration Services (USCIS) Chicago District Office is responding to your inquiry regarding the status of your constituent, A 027 812 256, Ekram Saeed. Our information shows that the background investigation conducted by the Federal Bureau of Investigations (FBI) for your constituent has not yet been completed. We may not proceed with the adjudication of the application or petition until the FBI completes their process and our records are updated with the results. It is uncertain the time period it takes for the results to be electronically submitted to USCIS and updated in our national records.

Please be assured that every case that is pending a background investigation is checked weekly for results to keep the adjudication process ongoing and timely. We are allowed to resubmit names pending over 90 days only if the name does not appear in the FBI database after 90 days of submission. If requesting an expedite processing of the background investigation your constituent must provide a written request with an explanation directed to the District Director for consideration with supporting evidence. The FBI will only expedite the processing if your constituent is in the military, an "age-out", diversity (DV) lottery winner meeting the deadline date or for compelling reasons.

Again, it is difficult to predict with accuracy when the clearance will be updated in our records. Please be assured that every effort is being made to render a final decision in a timely manner.



Robert L. Blackwood
Field Office Director

EXHIBIT 6



60603

Name: Ekram Saeed
Appointment Type: Speak to immigration officer
Confirmation No.: CHI-07-27078 **Authentication Code:** f08f
Appointment Date: October 2, 2007
Appointment Time: 3:00 PM
Location: 101 W. CONGRESS PARKWAY, Chicago, IL 60605;
LOBBY

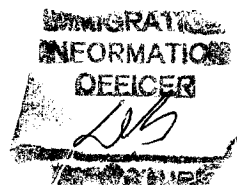
**This is your Confirmation
Number:**



**If you wish to cancel this appointment, you will need the
following Personal Identification Number:
41859**

**Please be on time. Failure to show up on time will result in the cancellation of
your appointment. You will then need to reschedule your appointment. You will
not be admitted more than 15 minutes before your scheduled appointment time.**

- **You must appear in person and bring photo identification along with this appointment letter.**
- **Acceptable forms of identification are any of the following: Government issued identification, passport, valid driver's license, I-94, Work Authorization Card, or Permanent Resident Card. (Green Card)**
- **In order that we may serve you more efficiently, we recommend that you bring all applicable immigration forms, letters, receipts and supporting documents. If translations are used, they should be certified. Please bring the original documents as well.**



10.2.07



DEPARTMENT OF HOMELAND SECURITY
U.S. Citizenship and Immigration Service
Chicago District Office

STATUS INQUIRY FORMDATE: 10-2-07**CORRESPONDENCE DETAILS**

On Behalf of (Applicant):

A Number: 127 812 256Name: SAEED EKRAM
Last First MiddleMailing Address: 1823 OLD OAKS ST. Apt # _____City: ROCKFORD State: IL Zip Code: 61108Daytime Phone Number: 815 670 1546Country of Birth: EGYPT Date of Birth: 2-11-55
☒ Check box if author is same as applicant
(DO NOT complete the following if box is checked)

Type of inquiry:

☐ Applicant ☒ Attorney ☐ CBO
Name: Shine John
Last First MiddleFirm/Organization: Minsky, McCormick, & Hallagan, P.C.Mailing Address: 122 S. Michigan Ave.Suite # or Apt. #: 1800City: Chicago State: IL Zip Code: 60603Phone No.: 312-427-6163**CORRESPONDENCE INFORMATION**☐ Check if telephonic inquiryClass: GENERAL Request Type (check all that apply): ☐ Address Change ☐ General ☐ Received DocumentsType of Application (check one): ☐ Adjustment of Status ☒ Citizenship

FORM FILED (check boxes below that apply):

DATE APPLICATION FILED: _____

☐ I-130 ☐ I-485 ☐ I-751 ☐ I-765 ☐ I-824☐ N-336 ☒ N-400 ☐ N-565 ☐ N-600 ☐ N-643 ☐ Other: _____REQUEST RESCHEDULE FOR (check one): ☐ Interview ☐ Oath ☐ FingerprintingAdditional Comments: INTERVIEWED ON 6/12/06. PASSED EXAM. APPLICATION NEVER APPROVED.

*** INQUIRIES MAY BE MADE BY APPLICANTS, BENEFICIARIES, ATTORNEYS, AND ACCREDITED REPRESENTATIVES ONLY. IF YOU ARE AN ATTORNEY, A FORM G-28 MUST BE ATTACHED.

*** CBOs MUST INCLUDE A PRIVACY RELEASE SIGNATURE FROM THE APPLICANT:

Signature: _____

Date: _____

*** MAIL INQUIRIES TO: USCIS, CUSTOMER SERVICE, P.O. BOX 3616, CHICAGO, IL 60690

CERTIFICATE OF SERVICE

I hereby certify that on this 26 of November, 2007, a copy of the attached Petition for a Hearing on Naturalization Application under 8 U.S.C. § 1447(b) was served upon the Defendants by depositing them in the U.S. mail, to be sent certified mail, addressed to:

Michael B. Mukasey
Attorney General of the United States
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Robert Mueller
Federal Bureau of Investigation
J. Edgar Hoover Building
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

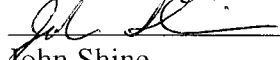
Michael Chertoff
Office of the General Counsel
U.S. Department of Homeland Security
Washington, DC 20528

Emilio T. Gonzalez, Director
U.S. Citizenship and Immigration Services
425 Eye Street, NW
Washington DC 20536

Ruth A. Dorochoff, District Director,
U.S. Citizenship and Immigration Services
Chicago District Office
101 West Congress Parkway
Chicago, IL 60605

I hereby certify that on this 26 of November, 2007, a copy of the attached Petition for a Hearing on Naturalization Application under 8 U.S.C. § 1447(b) was served via hand delivery upon:

Sheila M. McNulty
Special Assistant United States Attorney
219 S. Dearborn Street, 5th Floor
Chicago, IL 60604


John Shine
Minsky, McCormick and Hallagan, P.C.
122 S. Michigan Ave. Suite 1800
Chicago, IL 60603